

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1656 of 1997

to

FIRST APPEAL No 1664 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE M.H.KADRI

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

LAND ACQUISITION OFFICER

Versus

CHHATRASINH CHANDUBAHI DECD. THRO' HEIRS CHANDUBAHI CHAKU

Appearance:

MR PG DESAI, GP WITH MR. LR PUJARI, AGP for the Petitioners
MR KM SHETH, for the claimants.

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE M.H.KADRI

Date of decision: 25/09/97

ORAL COMMON JUDGEMENT By Coram: JN Bhatt, J

Admit. Service of which is waived by Ld.
Advocate Mr. KM Sheth for all the claimants in entire

group as he was appearing for the caveators. Upon joint request and on consensual statement and considering the peculiar facts and special circumstances and common question, we propose to deal with and decide the entire group of First Appeals, simultaneously.

In this batch of nine appeals under sec. 54 of the Land Acquisition Act, 1894 (the Act), the appellant - State of Gujarat has questioned the legality and validity of the common judgments & Awards in Land Reference Case Nos. 203/88, 198/88 to 202/88, 204/88 to 206/88, decided by the Jt. District Judge, Panch Mahals, at Godhara, on 16.12.1996.

A resume of the facts giving rise to this batch of appeals, may be stated, in short at the outset. The State Government acquired agricultural lands of village Bhalidiya, Ta : Godhara, for the purpose of construction of main canal of river Narmada by publishing notification under sec. 4(1) of the Act, on 30.1.1986, and subsequently, notification under sec. 6(1) of the Act on 17.11.1996. After completing necessary formalities and requisite procedure, the Land Acq. Officer, by his award dated 24.9.1997, awarded a sum of Rs. 1.30 ps. per sq.mt. as market value of the lands for the purpose of compensation under sec. 11 of the Act.

Being dissatisfied by the offer made by the Land Acq. Officer, the claimants went for reference and the reference came to be made by the District Collector to the District Judge under sec. 18 of the Act. Upon the assessment of the evidence and hearing the parties, reference court decided entire group by a common judgment by awarding compensation at the rate of Rs. 7/ per sq.mt. for agricultural lands acquired by the State Government under the notifications. The claimants were also found entitled to the benefits of the provisions of sec. 23(1-A) and 23(2) of the Act.

Being dissatisfied by the award made by the reference court in the aforesaid references, the government- State of Gujarat have, now, come up before this Court by filing this batch of appeals invoking the powers under sec. 54 of the Act, inter alia, contending that the reference court has awarded compensation higher than the entitlement to the claimants.

At the admission stage, we are supplied with the material information, copies of the documents relied upon by the reference court and after hearing Ld. Advocates appearing for the parties, the only question which requires determination and adjudication in this batch of appeals is whether the assessment of market value at the

rate of Rs. 7/- per sq.mt. for the lands acquired by the Government by the reference court is, in any way, unjust, illegal warranting our interference.

In order to appreciate the aforesaid sole question which has surfaced in this group of appeals, the following aspects which are not in controversy, may be highlighted :-

- (1) Notification under sec. 4(1) of the Act came to be published on 30.1.1986.
- (2) Notification under sec. 6 of the Act came to be published on 17.11.1986.
- (3) The respondents who were original-claimants were the owners of the lands acquired by the Government and there is no dispute about this aspect.

- (4) The Land Acq. Officer awarded compensation fixing the market value of the lands at the rate of Rs. 1.30 ps. per sq.mt. by his Award dated 24.9.1987.
- (5) Upon reference being made, the reference court allowed the reference in part and enhanced the fixation of the market value from Rs. 1.30 ps. per sq.mt. to Rs. 7.00 per sq.mt. by a common judgment recorded on 16.12.1996.
- (6) Reference Court placed reliance upon the comparable award produced at exh.12 in First Appeal No. 1731/94 of this Court. Therefore, the reference court held that the claimants are entitled to get compensation at the rate of Rs. 7.00 per sq.mt. as in the award, at Exh.12 confirmed by this Court, also awarded Rs. 7.00 per sq.mt.

The aforesaid aspects have remained uncontested. Therefore, practically, there is no dispute in this group of matters that the impugned judgment and award rendered by the reference court is founded upon a comparable and acceptable award in First Appeal No. 1731/94 produced at exh.12. Nothing has been successfully shown which would prompt up to take a different view and make a departure. Therefore, all appeals at the instance of the Government only merit rejection at the threshold.

However, incidentally, we may mention about the other awards in relation to the acquisition of the lands

for the same project in the nearby area. Our attention is drawn to the following facts :-

- (1) Award confirmed in First Appeal No. 1731/94 decided by the Division Bench of this Court on 6.2.1995 granting Rs. 7.00 per sq.mt. is in respect of the acquisition of lands for the same project in, nearby, area, wherein, the notification under sec. 4(1) of the Act came to be published on 11.8.1986 and resultant notification under sec. 6(1) of the Act came to be published on 8.10.1987.
- (2) The award passed by the reference court and confirmed by this Court in First Appeal No. 2033/94 in respect of the agricultural lands of the same project, wherein, also, the amount of compensation was assessed and awarded at Rs. 7.00 per sq.mt. The decision rendered by this Court in that First Appeal was carried further in the Supreme Court by filing Special Leave Petition No. 1069/95 which came to be dismissed on 19.9.1994. There is no dispute about the fact that the reference court awarded in connection with one of the adjoining lands for the same project referred to in First Appeal No. 2033/94 has become final wherein the rate of market value for the purpose of compensation has been assessed at Rs. 7/- per sq.mt. In that case also, notification under sec. 4(1) of the Act came to be published on 7.4.1986. Obviously, therefore, it is rightly not disputed that the award has become final and it can be relied upon.

There are three other First Appeals decided by this Court wherein the awards made by the reference court are confirmed and they are also comparable and acceptable which are as follows :-

- (i) First Appeal No. 15/95 decided on 6.2.1995 wherein the compensation was awarded at the rate of Rs. 7/- per sq.mt. in respect of agricultural lands acquired for the same project.
- (ii) Award made by the reference court and confirmed by this court in First Appeal No. 96/93 by the judgment dated 6.2.1995 and this court awarded compensation at the rate of Rs. 9/- per sq.mt. against the claim of Rs. 11/- per sq.mt. Notification in that case under sec. 4(1) of the Act was published on 31.1.1988.
- (iii) So is the case of the award of the reference court and confirmed by this court in relation to

the same project and agricultural lands crystallised in First Appeal No. 456/95 wherein this Court affirmed the view of the reference court and held that the claimants are entitled to the amount of Rs. 9/ per sq.mt. by way of compensation.

After having examined the admitted facts and circumstances and the aforesaid host of awards in respect of the acquisition of agricultural lands for Narmada Canal Project and considering evidence on record and rival submissions, we are satisfied that the impugned common judgments and awards are justified requiring no interference of this court exercising its powers under sec. 54 of the Act. With the result, the entire batch of appeals merits straightway rejection. Accordingly, all the appeals are dismissed at the threshold.

It was contended that the amount of compensation has not been paid or deposited so far by the Acquiring Body or the State. In the circumstances, the appellants original opponents are, hereby, directed to comply with the common judgments & awards in entire batch of appeals and deposit the full amount with costs and interest within a period of 8 (eight) weeks from today before the reference court.

0000000

*fa165697j*rawal